

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT HUNTINGTON**

ELECTRONICALLY FILED

**WEST VIRGINIA
HIGHLANDS CONSERVANCY,
APPALACHIAN VOICES,
and SIERRA CLUB,**

Plaintiffs,

v.

CIVIL ACTION NO. 3:19-cv-0573

LEXINGTON COAL COMPANY, LLC

Defendant.

**DEFENDANT'S COMPLIANCE WITH COURT'S MEMORANDUM OPINION
AND ORDER DATED MAY 18, 2022**

On May 18, 2022, this honorable Court entered its Memorandum Opinion and Order directing Defendant Lexington Coal Company, LLC ("Lexington") to provide as follows:

- 1. A plan, as certified by a professional engineer who must provide an affidavit that, upon his or her professional judgment, compliance for selenium limits would be accomplished within a year and ionic pollution restrictions would be met as soon as possible.***
- 2. Such plan to include either references to other operations where the chosen technology reduced pollutants, or the professional engineer must have demonstrated experience in treating selenium and ionic pollution in Appalachian mine sites.***
- 3. And such plan shall include a GANTT chart defining the steps of the compliance process, a timeline for completion of each step, and a date for final compliance.***

In response thereto and in full compliance thereof, within ten (10) days of the entry of the Memorandum Opinion and Order, Lexington provides, as attached, the Affidavit of Kermit E. Fincham, Jr., PE, PS and accompanying GANTT chart.

Respectfully submitted,

/s/ Billy R. Shelton
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CERTIFICATE OF SERVICE

I hereby certify that on May 31, 2022, a true and correct copy of the foregoing was Filed with the Clerk of Court via the ECF filing and duly e-mailed to the following:

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